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EXAMINER

KEATON, SHERROD L

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/787,315  
Filing Date: February 27, 2004  
Appellant(s): GRIFFIN, JASON T.

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Geoffrey DeKleine  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 6-14-2010 appealing from the Office action mailed 12-28-2009.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

Chua	(US 2004/0183833 A1)	09-23-2004
Davdison	(5627567)	5-06-1997
Vargas	(5748512)	05-05-1998
Robinson et al.	(US 6801190 B2)	10-05-2004
Moon et al.	(US 6259436 B1)	07-10-2001

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3- 7, 9, 10 12, 15, 22, 23, 25, 26, 28, 31, 34, 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chua (US 2004/0183833 A1) in view of Davidson (US 5627567) and Vargas (5748512).

**Claims 1 and 34:** Chua discloses a method and computer readable medium comprising:

associating areas of a touch interface of a mobile electronic device with characters wherein at least some of the associated areas overlap with one another (Page 2, Paragraph 23 and 24) ;

detecting a location of a user's touch on the touch interface and for each area of the touch interface which includes the location, identifying the character associated therewith (Page 2, Paragraph 19 and 20).

However Chua does not explicitly show an intermediate region that represents more than one character. However Davidson shows the functionality of providing control areas with extended regions which form an intermediate region (Figure 9, Column 18, Lines 7-14). Therefore it would have been obvious to one having ordinary skill in the art

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at the time of the invention to use the functionality of Davidson to provide the intermediate regions in Chua to represent multiple letters. One would have been motivated to use the functionality of an intermediate region to improve user selection and error control.

Nor does Chua explicitly disclose wherein for a first character, the associating comprises associating an area of the touch interface with the first character by joining the centers of characters nearest to the first character. However Vargas discloses a functionality of associating a center point of letters associated with the intended selection. (Figure 2, Column 5, Line 40-Column 6, Line 7). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to provide the functionality of associating the centers of letters in Chua as taught in Vargas. One would have been motivated to provide this functionality to offer an improved method of determining the intended selection by the user when multiple options are present.

**Claim 3:** Chua, Davidson and Vargas disclose a method as in Claim 1 and further discloses if two or more characters are identified, using predictive software text to select one of the characters (Chua: Page 2, Paragraph 23; Page 5, Paragraph 55).

**Claim 4:** Chua, Davidson and Vargas disclose a method as in Claim 3 and further discloses providing the predictive software text with an indication that the location is

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closer to one of the identified characters than to others of the identified characters

(Chua: Page 2, Paragraph 23; Page 5, Paragraph 55).

**Claim 5:** Chua, Davidson and Vargas disclose a method as in Claim 3 and further discloses providing the predictive software text with an indication of how much closer the location is to one of the identified characters than to others of the identified characters (Chua: Page 2, Paragraph 23; Page 5, Paragraph 55).

**Claim 6:** Chua discloses a mobile electronic device comprising:

one or more touch interfaces to receive a touch by a user (Page 2, Paragraphs 19 and 20);

a display for displaying one or more rows of characters (Page 2, Paragraphs 19 and 20);

a microprocessor for associating overlapping areas of the one or more touch interfaces with the characters wherein at least some of the areas overlap with one another (Page 2, Paragraphs 19-24);

and identify which characters are associated with the areas of the one or more touch interfaces that include a location of the touch (Page 2, Paragraphs 22 and 26).

However Chua does not explicitly show an intermediate region that represents more than one character. However Davidson shows the functionality of providing control

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areas with extended regions which form an intermediate region (Figure 9, Column 18, Lines 7-14). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to use the functionality of Davidson to provide the intermediate regions in Chua to represent multiple letters. One would have been motivated to use the functionality of an intermediate region to improve user selection and error control.

Nor does Chua explicitly disclose wherein for a first character, an area of the one or more touch interfaces associated with the first character is bounded by joining the centers of characters nearest to the first character. However Vargas discloses a functionality of associating a center point of letters associated with the intended selection. (Figure 2, Column 5, Line 40-Column 6, Line 7). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to provide the functionality of associating the centers of letters in Chua as taught in Vargas. One would have been motivated to provide this functionality to offer an improved method of determining the intended selection by the user when multiple options are present.

**Claim 22:** Claim 22 is similar in scope to Claim 6 and is rejected with the same rationale.

**Claim 7:** Chua, Davidson and Vargas disclose a mobile electronic device as in Claim 6 above wherein the one or more touch interfaces is a single touchpad (Chua: Page 2, Paragraphs 18-20).



**Claim 23:** Claim 23 is similar in scope to Claim 7 and is rejected with the same rationale.

**Claim 9:** Chua, Davidson and Vargas disclose a mobile electronic device as in Claim 6 above wherein the one or more touch interfaces are two or more touchpads (Chua: Page 2, Paragraphs 18-20).

**Claim 25:** Claim 25 is similar in scope to Claim 9 and is rejected with the same rationale.

**Claim 10:** Chua, Davidson and Vargas disclose a mobile electronic device as in Claim 6 above and further discloses where the one or more touch interfaces is a single touchscreen (Chua: Page 2, Paragraphs 18-20).

**Claim 26:** Claim 26 is similar in scope to Claim 10 and is rejected with the same rationale.

**Claim 12:** Chua, Davidson and Vargas disclose a mobile electronic device as in Claim 10 above and discloses where for a first character, an area of the touchscreen associated with the first character is overlapped by an area of the touchscreen

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associated with a different character of an adjacent row (Chua: Page 2, Paragraphs 19-24).

**Claim 28:** Claim 28 is similar in scope to Claim 12 and is rejected with the same rationale.

**Claim 15:** Chua, Davidson and Vargas disclose a mobile electronic device as in Claim 6 above and further discloses that the microprocessor is configured to execute a predictive software text module to select one of the characters (Chua: Page 2, Paragraphs 18-20).

**Claim 31:** Claim 31 is similar in scope to Claim 15 and is rejected with the same rationale.

**Claim 35:** Chua, Davidson and Vargas disclose a medium of claim 1, wherein the method further comprises if two or more characters are identified, using predictive text software to select one of the characters (Vargas: Column 5, Line 25-Column 6, Line 7).

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**Claim 38:** Claim 38 is similar in scope to Claim 1 and is rejected with the same rationale.

Claims 8, 11, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chua (US 2004/0183833 A1), Davidson (5627567) and Vargas (5748512) in further view of Moon et al (US 6259436 B1).

**Claim 8:** Chua, Davidson and Vargas disclose a mobile electronic device as in Claim 7 above but do not explicitly disclose that the rows of characters are spaced at a sufficient vertical distance that there is no ambiguity as to which row of characters is being touched. However Moon discloses an apparatus and method for determining selection of touchable items on a computer touchscreen by an imprecise touch and further discloses having sufficient space on a touchscreen and or keyboard (Column 4, Lines 41-49) (Column 5, Lines 1-15). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to also provide sufficient space on a keyboard of the modified Chua. One would have been motivated to provide sufficient space between letters to cut down on the high risk of errors.

**Claim 24:** Claim 24 is similar in scope to Claim 8 and is rejected with the same rationale.

**Claim 11:** Chua, Davidson and Vargas disclose a mobile electronic device as in Claim 10 above but does not explicitly disclose that the rows of characters are spaced at a sufficient vertical distance that there is no ambiguity as to which row of characters is being touched. However Moon discloses an apparatus and method for determining selection of touchable items on a computer touchscreen by an imprecise touch and further discloses having sufficient space on a touchscreen (Column 4, Lines 41-49). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to also provide sufficient space on the keyboard representation of Chua. One would have been motivated to provide sufficient space between letters to cut down on the high risk of errors.

**Claim 27:** Claim 27 is similar in scope to Claim 11 and is rejected with the same rationale.

Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chua (US 2004/0183833 A1), Davidson (5627567) and Vargas (5748512) in further view of Robinson et al ("Robinson" US 6801190 B2).

**Claim 36:** Chua, Davidson and Vargas disclose a medium of claim 35, but do not explicitly disclose wherein the method further comprises: providing the predictive text

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software with an indication that the location is closer to one of the identified characters than to others of the identified characters. However Robinson discloses a touch screen system with a functionality of determining which letter is closet to the point of contact to provide the word choice list (Column 23, Line 50-Column 24, Line 5). Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to provide the functionality of Robinson in the modified Chua. One would have been motivated to provide the functionality to improve accuracy when attempting to offer a selection to the user.

**Claim 37:** Chua, Davidson and Vargas disclose a medium of claim 35, but do not explicitly disclose wherein the method further comprises: providing the predictive text software with an indication of how much closer the location is to one of the identified characters than to others of the identified characters. However Robinson discloses a touch screen system with a functionality of determining which letter is closet to the point of contact with a calculated distance in order to provide the word choice list (Column 23, Line 50-Column 24, Line 5). Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to provide the functionality of Robinson in the modified Chua. One would have been motivated to provide the functionality to improve accuracy when attempting to offer a selection to the user.

### **(10) Response to Argument**

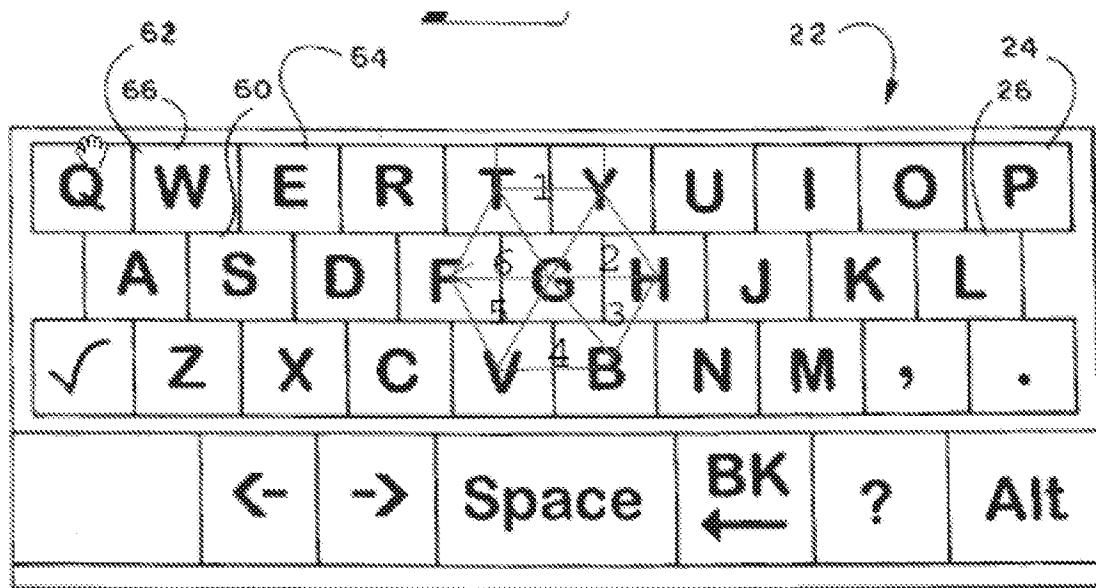
Applicant's arguments have been considered but are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicants argue that Chua and Davidson do not disclose associating areas of a touch screen with a character wherein at least some of the associated areas overlap with one another to form intermediate regions that represent more than one character. Examiner disagrees. Chua has shown through his drawings and disclosure associating areas with characters that can represent more than one character (Paragraph 23). The ability to allow a selection within one defined region to possibly represent a different character shows a form of overlap which implies some form of intermediate region. This type of overlap functionality allows for correction of possible inaccurate selections. Chua does not explain in detail that intermediate regions are formed but as stated above an intermediate region is understood, therefore Davidson has been provided to strengthen the understanding of overlapping regions (Figure 9a) to form an intermediate region.

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This provides a known functionality of an intermediate region which can be incorporated with the Chua functionality to cover the claim limitation in whole. Hence the functionality is provided, how the system addresses a selection may differ but does not take away from the fact that the functionality of developing an intermediate region exist.

The applicants further argue that the Vargas reference works in a fundamentally different manner of joining the centers. Examiner disagrees. Examiner is relying on the specification of Vargas (Column 5, Line 40-Column 6, Line 7) to address the limitation. Nonetheless, Examiner has provided Figure 2 of Vargas which is not solely relied upon but provided with annotations (1-6) for emphasis and clarification in further strengthening examiners' interpretation.



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Per the figure, Vargas algorithm for selecting the three proximate keys has the effect of associating the letters in the middle row (S, D, F, G, H, J, & K) to an area of the touch screen that is bounded by the centers of the adjacent keys as described in [0050] of the present invention.

Referring to the marked area in fig.2 around the letter G for example, if the touched location is within area 1, Vargas' algorithm would select letters G, T, and Y for analysis because those are the three letters with center points closest to the touched position. Touch in area 2, letters G, Y and H would be selected. Touch in area 3 letters G, H, and B would be selected. Touch in area 5 letters G, V and F would be selected. Touch in area 6, letters G, F and T would be selected.

A touch within any of the areas 1 to 6 would result in letter G being selected as one of the letters for further analysis because its center point would be one of the three closest to the touch location. Hence, areas 1 to 6 are effectively associated with the letter G. Areas 1 to 6 together are bounded by joining the centers of the letters T, Y, H, B, V, and F. These are letters nearest to letter G. Therefore, letter G is associated with an area of the touch screen that is bounded by joining the centers of its nearest letters.

This is the same association described in [0050] of the present invention. This interpretation would also equally apply to any other key selection.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of



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ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Combining the functionalities of the cited references which all pertain to touchscreen selection/prediction would have been well known to one skilled in the art. Furthermore, the examiner can not find any negative teachings in the cited references against the combination which addresses the claim limitations.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Sherrod Keaton/

Examiner, Art Unit 2175

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